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Attorney for Plaintiff

UNITED STATES DISTRICT COURT

BRIAN WEBB

:

DISTRICT OF NEW JERSEY

:

DOCKET NO.:

:

VS.

Martin J. Kessler, M.D.

:

Family Medicine, Delaware

Valley Primary Care

:

John Doe (1-5) Fictitious Name(s)

And Jane Doe (1-5)

Representing Any Individual(s) or :

Entity Presently Unknown to :

Plaintiff,

CIVIL CASE

Defendant(s)

:

COMPLAINT AND DEMAND FOR

TRIAL BY JURY

FEDERAL JURISDICTION

1. This Court has federal jurisdiction of this case based upon diversity of the parties herein.
2. The Plaintiff is a resident of the State of Florida, at 215 S.E. 16th Street in Cape Coral Florida.

3. Upon information and belief, the Defendant Martin J. Kessler conducts his medical practice and has a medical office place of business at 1458 W. Landis Avenue, Suite 2, Vineland New Jersey.
4. Upon information and belief the Defendant physician is a resident of the State of New Jersey.
5. The medical negligence complained of was performed upon the Plaintiff in the City of Vineland, Cumberland County and State of New Jersey by a physician licensed to practice medicine in the state of New Jersey.
6. The amount of damages claimed in this matter is in excess of \$75,000.00.

COMPLAINT

By way of Complaint against Defendant Martin J. Kessler, M.D, Plaintiff Brian Webb states:

1. Defendant, Martin Kessler, M.D. is a physician practicing in the State of New Jersey under the business name of Delaware Valley Primary Care.
2. Upon information and belief the Defendant is or may be a sole practitioner but also appears to be affiliated with Delaware Valley Primary Care Group.

In his capacity as a physician and working for or as a physician doing business under the name of Delaware Valley Primary Care provided medical care to the Plaintiff.
3. On or about September 18, 2011, the Defendant Dr. Kessler negligently administered a flu shot to the Plaintiff in his right upper arm.

4. The Defendant, Kessler, failed to use the appropriate standard of care in administration of the injection to the Plaintiff, failed to employ the proper sterile technique and failed to properly insert the injection and was otherwise negligent in the administration of the aforesaid injection.
5. The negligence of the Defendant, Kessler resulted in a serious infection at the site of the injection inside the upper right arm of the Plaintiff which infection was discovered by the Plaintiff's surgeons during the course of emergency surgery performed upon the Plaintiff's upper right arm at the site of the injection on or about October 25, 2011.
6. As the result of his emergency room visit on or about October 25, 2011, and in consultation with his treating doctors and surgeons at Kennedy Memorial Hospital, Plaintiff was informed that he had in fact been improperly injected.
7. The Defendant, Kessler failed to use the appropriate level of care required of a doctor administering the injection, failed to use proper sterile technique and failed to properly locate the injection administered and was otherwise negligent in the administration of the injection.
8. As the direct and proximate result of the Defendant Kessler's negligence in the administration of the injection, the Defendant's upper right arm became infected, abscessed, pustulent, and necrotic which required extensive surgical intervention to remove, clean and repair.
9. The negligence of the Defendant Kessler as detailed herein proximately caused Plaintiff to suffer injury, physical and emotional pain and suffering, extensive and permanent scar tissue, permanent nerve damage and other pain

and suffering which has required medical treatment and which will cause the Plaintiff to suffer medical treatment in the future to his great loss and damage.

Wherefore, Plaintiff demands judgment against Defendants Martin J. Kessler, M.D. and or d/b/a Delaware Valley Primary Care for damages, interest, attorney's fees and costs of suit, jointly severally and in the alternative.

SECOND COUNT

10. Plaintiff repeats and reiterates the allegations of the First Count as though fully set forth at length herein.
11. Martin J. Kessler, M.D. is a member of, a professional associate of, or the principal member of Delaware Valley Primary Care .
12. Upon information and belief, Delaware Valley Primary Care , is a professional association of medical doctor(s) constituted and organized to provide primary medical care for patients in New Jersey and surrounding areas.
13. The Defendant, Delaware Valley Family Care is liable for the actions of its members, associates and/or its principal member(s) acting under or doing business as a medical care association by the principal and agent.
14. Dr.. Martin J. Kessler, M.D. is the principal, agent and/or associate of Delaware Valley Primary care.
15. Delaware Valley Primary Care was negligent in the manner of its supervision,

direction and/or training of Defendant Dr. Martin J. Kessler and was generally negligent in that its association and affiliation with the Defendant Kessler which resulted in the aforesaid damages to the Plaintiff, Brian Webb.

Wherefore, Plaintiff demands judgment against Defendants Martin J. Kessler, M.D. and or d/b/a Delaware Valley Primary Care for damages, interest, attorney's fees and costs of suit, jointly severally and in the alternative.


THIRD COUNT

16. John Doe(s) (1-5) and Jane Doe(s) (1-5) are fictitious names that represent any individual, professional, physician, surgeon, corporation, professional association or anyone, or any entity who is presently unknown to the Plaintiff and who may later be discovered to have contributed to the injury and damage done to the Plaintiff.
17. Plaintiff repeats and reiterates each and every allegation of the First and Second Counts as though set forth at length herein.
18. John Doe(s) 1-5 and Jane Does (1-5) were negligent in the preparation and treatment of the injection administered to the Plaintiff.
19. The negligence of John Doe(s) 1-5 and Jane Doe(s) 1-5 proximately caused and contributed to the injury pain suffering surgery and scarring of Plaintiff's right arm.

20. As the direct and proximate result the negligence of John Doe(s) 1-5 and Jane Doe(s) 1-5 , Plaintiff to suffer injury, physical and emotional pain and suffering, extensive and permanent scar tissue, permanent nerve damage and other pain and suffering which has required medical treatment and which will cause the Plaintiff to suffer medical treatment in the future to his great loss and damage.

WHEREFORE, Plaintiff demands judgment against John Does(1-5) and Jane Does (1-5) Martin J. Kessler, M.D. and or d/b/a Delaware Valley Primary Care for damages, interest, attorney's fees and costs of suit, jointly severally and in the alternative.

October 17, 2013

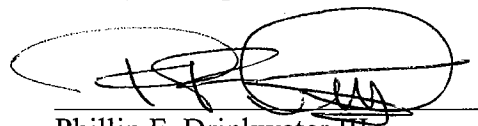


Phillip F. Drinkwater III
Attorney for Plaintiff

STATEMENT OF NO OTHER PARTIES OR ACTIONS

There is/are no other parties presently known to the Plaintiff that should be joined to this action at this time. Plaintiff reserves the right to amend this Complaint should other entities or individuals become known to Plaintiff who are or may be liable to Plaintiff in this action. This action is not the subject of any other proceeding action or arbitration.

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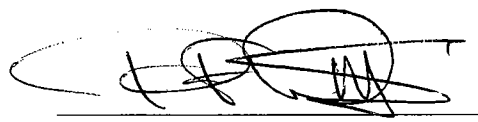


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Attorney for Plaintiff

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands trial by jury as to all issues.

October 17, 2013



Phillip F. Drinkwater III
Attorney for Plaintiff